

NORTH DAKOTA IMMUNIZATION INFORMATION SYSTEM CONFIDENTIALITY POLICY AND USER AGREEMENT

The North Dakota Immunization Information System (NDIIS) is a confidential, population-based, computerized information system that attempts to collect vaccination data about all North Dakotans. The NDIIS is an important tool to increase and sustain high vaccination coverage by consolidating vaccination records of children from multiple providers and providing official vaccination forms and vaccination coverage assessments. Children are entered into the NDIIS at birth, through a linkage with electronic birth records. An NDIIS vaccination record also can be initiated by a health care provider at the time of a child's first immunization. The NDIIS has the capability of collecting vaccination data on adults 19 years of age and older, as well as children 18 years of age and younger.

The NDIIS confidentiality policy provides for the disclosure and use of immunization information among health care providers, public and private elementary, secondary and post-secondary schools, childcare providers, city or county boards of health and district health units to meet statutory immunization requirements and to control disease outbreaks.

The following provisions of North Dakota Century Code (N.D.C.C.) and North Dakota Administrative Rule (N.D.A.C.) provide authorize the development and provide for the confidentiality requirements of the NDIIS: N.D.C.C. § 23-01-05.3.; N.D.C.C. § 23-07-17.1; and N.D.A.C. ch. 33-06-05.

The purpose of this policy is to address the need to provide appropriate confidentiality protections to the information in the NDIIS. The confidentiality of the information must be distinguished from issues of privacy. Privacy is concerned with the control individuals exert over their personal information. Under NDIIS's policy, confidentiality is concerned with how the information provided to NDIIS is accessed, collected, stored, used and provided to other individuals and organizations. The responsibility of protecting confidentiality extends to anyone having access to information contained in the NDIIS, whether it is accessed directly or indirectly through interoperability with a provider's electronic health record system or through the state's health information network.

NDIIS shall protect the privacy of its participants and the confidentiality of information contained within the NDIIS. Patient and provider specific information in NDIIS is only available to the authorized users and the North Dakota Department of Health (NDDoH).

SECTION I: PATIENT PARTICIPATION

1. A Patient's Right Not to Participate in the NDIIS

In accordance with N.D.C.C. § 23-01-05.3., children are required to participate in the NDIIS.

An adult may choose to be excluded from the NDIIS; thereby limiting future access to his/her immunization records through the NDIIS, by notifying their healthcare provider or completing the opt out form available at <http://www.health.nd.gov/immunize/ndiis>. It is the responsibility of the healthcare provider to notify adult patients that their information will be added to the NDIIS. If the patient chooses to opt-out of the NDIIS, it is the responsibility of the patient to submit the online opt-out form. Once the form has been submitted, their record cannot be accessed by any immunization provider and no new information will be entered in the NDIIS.

2. Patient Consent Not Required

Written consent is not required prior to immunization information being entered into the NDIIS for any patient. This is in accordance with the N.D.C.C. § 23-01-05.3.

3. Release of Information

North Dakota Code § 23-01-05.3. permits health care providers, elementary or secondary schools, early childhood facilities, public or private postsecondary educational institutions, city or county boards of health, district health units and the state health officer to exchange certain immunization data. The immunization data that may be exchanged "is limited to the date and type of immunization administered to a patient and may be exchanged regardless of the date of the immunization."

SECTION II: USE OF THE DATA AND CLASSIFICATION OF THE USERS

Only authorized users will have access to the information in the NDIIS and will use it only for authorized purposes. Health care providers, public and private elementary, secondary

and post-secondary schools, childcare providers, city or county boards of health and district health units can apply to participate in the system. A representative of each authorized organizational participant must sign a Provider Site Agreement and abide by its requirements. Each Provider Site Agreement will identify a Site Administrator, who will be responsible for authorizing individual users at the Provider Site. No user will be authorized to access the NDIIS without first signing a statement that they will comply with this Confidentiality Policy and User Agreement.

NDIIS users may access identifiable patient information in the system only as required to assure adequate immunization of a patient, to avoid unnecessary immunizations, to confirm compliance with mandatory immunization requirements, to control disease outbreaks, to print Certificates of Immunization, to report and to review vaccine exemptions and to notify patients (or parents/guardians of minor children) that they are due or past due to receive recommended immunizations.

NDIIS users may not:

- Reveal or share any records or immunization data except as necessary in the course of their official duties, unless they have proper authorization from the patient whose records or data will be shared.
- Examine or read any records or immunization data regarding family, friends, public figures, etc. except on a "need to know" basis.
- Discuss or reveal the content of records or the immunization data with any person unless both persons have the authority and a need to know the information.
- Discriminate against, abuse or take any adverse action toward a person to whom the record or immunization data pertains.
- Compile any aggregate data or statistics from the NDIIS except as needed to complete assigned tasks and duties.
- Contact a person whose contact information you obtain from an immunization record in the NDIIS, except on official business or in the course of official duties, without proper authorization from the NDIIS or without proper authorization from the individual to whom the information pertains.
- Engage in any conduct involving the NDIIS that would constitute a criminal offense or give rise to civil liability.

Providers, including health care personnel and public health personnel, are the primary users of the NDIIS. Providers agree to use the NDIIS only for the immunization needs of its patients or the targeted population in their catchment area. Providers and their personnel may access the NDIIS only when needed to coordinate immunization services and certain provider types will have their access limited to only the age group they serve.

Schools and childcare providers are the secondary users of the NDIIS. They are allowed read and write access for only the age group that they serve.

Patients and parents or guardians of minor children may receive a copy of their own or their child's immunization record from their own health care provider if the provider participates in the NDIIS, from their local public health unit, or directly from the NDDoH. Authorized health care providers and local public health units must allow the patients and parents/guardians of minor children to inspect, copy, and if necessary, amend or correct their own or their child's immunization record if they demonstrate that the record is incorrect by a credible source. A credible source is defined as a written immunization record from a healthcare provider or another immunization information system. An oral history of immunization is not acceptable.

SECTION III: DATA ACCESS AND SECURITY PROCEDURE

Each user is responsible for maintaining the confidentiality of information contained in NDIIS. Each user is required to electronically sign this NDIIS Confidentiality Policy and User Agreement annually.

Security Procedures

1. All users must safeguard his/her user ID and password.
 - Do not give a user ID and password to others.
 - Do not post a user ID and password.
 - Change password periodically, at least every 90 days.
2. All users must maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of health information.
 - Do not access the NDIIS when user's device is connected to an unsecured internet connection to prevent access by unauthorized individuals.
 - Do not access the NDIIS when in an open, public setting that may expose health information to unauthorized individuals.
 - Do not communicate personally identifiable information via unsecure communication method.
3. The NDIIS program must maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of health information.
 - The NDIIS central database resides in a secured area.
 - NDDoH must establish and maintain the firewall protection of its computing network to prevent access by unauthorized individuals.

- NDIIS must use data encryption technology in its internet application.
- NDIIS must provide periodic training on privacy and data security to its staff and users.
- NDIIS must conduct periodic assessments on the implementation of its privacy and security policies.

NDIIS information is confidential and can only be used for those purposes outlined in this document. Violation of this policy will be followed by an investigation and appropriate legal action stipulated in N.D.C.C. § 23-01.3-09, which includes a penalty for unauthorized disclosure of health information. NDIIS privileges can be revoked pending results of the investigation.

3. The NDIIS does not delete client information. All information is retained within the NDIIS database.

User agreements are electronically renewed annually through the NDIIS. An electronic confirmation on the Confidentiality Policy and User Agreement Acknowledgement indicates that a user has read this policy, understands the content, and agrees to abide by its terms. A copy of this confidentiality policy is available at <http://www.health.nd.gov/immunize/ndiis> and in the NDIIS Help Menu. The Site Administrator or Authorized Representative is required to notify the NDDoH as soon as possible – but no later than one week after - when any user account requires termination due to an employee resignation or change in job responsibilities that no longer require access to NDIIS.

4. Users must comply with N.D.C.C. ch. 51-30, which outlines the procedures for reporting a security breach of personal information.

N.D.C.C. § 51-30-02 requires “any person that owns or licenses computerized data that includes personal information, shall disclose any breach of the security system following discovery or notification of the breach in the security of the data to any resident of the state whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. In addition, any person that experiences a breach of the security system as provided in this section shall disclose to the attorney general by mail or email any breach of the security system which exceeds two hundred fifty individuals. The disclosure must be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in section 51-30-04, or any measures necessary to determine the scope of the breach and to restore the integrity of the data system.”

N.D.C.C. § 51-30-05 requires that "notice under this chapter may be provided by one of the following methods:

1. Written notice;
2. Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 7001 of title 15 of the United States Code; or
3. Substitute notice, if the person demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person does not have sufficient contact information. Substitute notice consists of the following:
 - a. E-mail notice when the person has an e-mail address for the subject persons;
 - b. Conspicuous posting of the notice on the person's website page, if the person maintains one; and
 - c. Notification to major statewide media."

As a user of the NDIIS, I acknowledge that I have read and understand this policy and agree to the terms and conditions as stated. I further understand that my failure to follow the requirements of this policy may result in the revocation of my access to the NDIIS. In addition, I understand that the unauthorized disclosure of confidential information could result in both criminal and civil liability.